



AIR & WASTE MANAGEMENT  
ASSOCIATION  
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News from the Indiana Chapter of  
the Air & Waste Management  
Association

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# Indiana NEWs

## *U.S. EPA Proposes Amendments to NESHAP General Provisions – “Once In, Always In” Policy May Change*

*By Jaime K. Saylor,  
Hatchett & Hauck LLP*

On January 3, 2007, the United States Environmental Protection Agency (“USEPA”) published in the Federal Register a proposal to amend the General Provisions to the national emission standards for hazardous air pollutants (NESHAPs) at 72 Fed. Reg. 69. USEPA is proposing to allow a major source to become an area source at any time by limiting its potential to emit hazardous air pollutants (“HAPs”) to below the major source thresholds. The agency is seeking comments on its proposed rule. This is important for any major source currently subject to a NESHAP that may wish to become an area source and reduce its requirements.

### **BACKGROUND**

Under Section 112 of the Clean Air Act (“CAA”), a major source is:

... any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant or 25 tons per year or more of any combination of hazardous air pollutants.

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## *U.S. EPA Proposes Amendments to New Source Performance Standards for Equipment Leaks of VOCs*

*By: David R. Wall and Kirk P. Lowery,  
Trinity Consultants*

On November 7, 2006, U.S. EPA proposed amendments to the New Source Performance Standards (NSPS) for equipment leaks of volatile organic compounds (VOC) codified in 40 Code of Federal Regulations (CFR) 60, Subpart VV and 40 CFR 60, Subpart GGG. The proposed amendments are derived from a review of the petroleum refinery leak detection and repair (LDAR) consent decrees, National Emissions Standards for Hazardous Air Pollutants (NESHAPs), and more stringent state regulations. Public notice ended January 8, 2007. These amendments can be categorized as 1) increasing stringency of LDAR standards for valves and pumps, 2) requiring new compliance demonstrations/options for open-ended lines/valves, pumps, closed vent systems, and instrument calibrations and 3) addressing some additional technical corrections and clarifications.

- 1. Increase stringency of LDAR Standards for Valves and Pumps:**  
EPA is proposing that pumps in light liquid service that are part of an affected facility that commences construction, reconstruction, or modification after 11/7/06 will have a leak definition of 5,000 parts per million (ppm) or greater for pumps handling polymerizing monomers or 2,000 ppm or greater for all other pumps.

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## 2007-2008 Indiana Chapter Executive Board

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## From the Chair

By: Board Chair, Kristen Gobbi-Belcredi,  
Keramida Environmental

A happy 2007 to all of our members. I hope your holidays were safe and enjoyable. We ended 2006 with another successful Winter Technical Meeting. Our annual event focused on IDEM's priorities for 2007. This was our 5<sup>th</sup> year to hold this event, and it continues to be very successful. Our thanks go out to IDEM's continued participation in this event. Many thanks to Amanda Hennessy of the City of Indianapolis and Susan Harris of Astbury Environmental Engineering, Inc. for their efforts in organizing this event.

We also held our Annual Business Meeting at the Winter Technical Meeting. Congratulations to Amanda Hennessy of the City of Indianapolis for being elected as the Director for Northern Indiana and to Dan Todd of Air Quality Services for being elected as the Director for Southern Indiana.

It is time to start planning to attend the Annual Conference and Exhibition in Pittsburgh, Pennsylvania on June 26 – 29, 2007. The 2007 ACE is part of the 100<sup>th</sup> year celebration of A&WMA and special additional events will be held. The theme for the ACE is "Energizing Environmental Solutions." The Board is hoping to arrange travel availability as a group to provide low cost opportunities for members to attend.

Our excellent Programs Committee is currently planning the Spring Technical meeting. Please look for an announcement and registration information in the future. Our thanks go to our speakers, hosts, and all the volunteers who help with the Chapter. Remember, there are always opportunities to join one of our committees and help with the work done by the Chapter. Please feel free to contact me or any of your Chapter Board members to let us know how you would like to become more involved.

Our *thanks* to

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## *Heighway Honored at Chapter Annual Meeting*

Anne Heighway (right) was recognized for her leadership and significant contributions by Indiana Chapter Chair, Kristen Belcredi, during the Chapter's Annual Meeting in December.

“Since Anne is completing a three-year term on the International Board of Directors and is rotating off of the Chapter Board after serving for the last ten years, the Chapter Annual Meeting was the perfect time and place to acknowledge her long-term commitment to the Chapter and to the Association,” said Belcredi.

“Anne’s leadership style is hard to find in service organizations such as A&WMA,” remarked Past Chapter Chair Steve Dixon, “she’s been a premier recruiter. She makes people *want* to participate at the chapter, section, and council levels. Anne has always been a part of the “team”, wherever she has participated.

Whenever a team has been stumped for creativity, it has always been able to turn to Anne.”

Heighway had previously served as Chapter Vice-Chair and Chair. It was during 1998 as Chapter Chair that she coordinated the team to propose bringing the Association’s 2004 Annual Conference & Exhibition (ACE) to Indiana.

“She has repeatedly demonstrated her leadership abilities by envisioning and implementing concepts like corporate sponsorships prior to having to recruit them for ACE sponsorship,” said Dave Hoffman. “She also initiated an “Ambassadors” program to reach out and support the ACE. Anne not only Co-Chaired the entire ACE with me, but also executed a number of behind-the-scenes responsibilities like managing a \$50K Cooperative Agreement between the Chapter and EPA to support the ACE.”

Additionally, Anne served on the International Sections and Chapter Council where she represented the Indiana Chapter, and is also a past Director of the East Central Section.

For the past three years she has represented the Indiana Chapter on the International Board with enthusiasm and integrity, and was frequently called upon for many special assignments. She continues to work to support the Association’s Centennial planning effort even though her official term on the Board has expired, which says a lot about her character.

“I’ve had the pleasure to work with Anne during her role in the 2004 Annual Conference & Exhibition, and during her tenure on the Association’s Board of Directors,” said A&WMA Executive Director Adrienne Carolla, “Anne’s dedication, personal effort, and leadership is sincerely appreciated by me, her fellow Board members, the staff, and by everyone who has been a benefactor of her contributions. Her work ethic serves as an example for others to emulate.”

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“The Indiana Chapter Board energetically supported the idea of honoring her for her thousands and thousands of hours contributed on behalf of the Chapter and Association,” said Board member and Association Past President Hoffman during the award presentation. “Anne Heighway has made enormous contributions to the success of the Indiana Chapter.”

“It’s been a great experience and I plan to stay actively involved in the Chapter. I am grateful to Lilly and my previous employers for their support of my participation over the years,” remarked Heighway. “And, I highly encourage other Chapter members to get involved to increase both their technical knowledge and enhancing their networking opportunities as the Association enters its Centennial year. I’ve truly benefited from the experience.”

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***East Central Section Officers Attend ECS Annual Meeting and Technical Session at Churchill Downs***



*East Central Section Officers attended the East Central Section Annual Meeting and Technical Session held at Churchill Downs on November 17, 2006. In attendance for a tour of the Downs were (left to right): Bruce Gaylord (past Chair); Ted Palma, OAQPS; Emma Lou George (Section Chair); Anne Heighway (A&WMA International Board of Directors); Valerian Simianu (Section Vice Chair); unknown; Bryan Handy (Section Treasurer and KY Chapter Chair); Bill Garber (Section Secretary).*

*U.S. EPA Proposes Amendments to NESHAP General Provisions –  
“Once In, Always In” Policy May Change  
(Continued from Front Page)*

Section 112 of the CAA then defines an area source as any stationary source of HAPs that is not a major source. As USEPA explains in its notice, emissions standards for major sources are based on the maximum achievable control technology (“MACT”) currently employed by the best-controlled sources in the industry, but standards for area sources could be based on MACT, or other generally available control technology (“GACT”) or generally available management practices, or in some cases, have no requirements imposed through the NESHAP program. As a result, sources that are major usually must comply with more stringent requirements than area sources.

**“ONCE IN, ALWAYS IN”**

A major source may avoid being subjected to major-source MACT requirements by choosing to limit its potential to emit HAPs to below the major-source thresholds, but under the current rules and a 1995 USEPA guidance memo, a major source must do so by the first substantive compliance date of the applicable MACT standard. USEPA’s proposal explains that, in addition to setting a MACT standard’s first substantive compliance date as the deadline for limiting potential to emit (“PTE”) in order to become a minor source, USEPA’s May 16, 1995 memorandum also determined that:

... once a source was required to comply with a MACT standard, i.e., once the first substantive compliance date had passed without the source limiting its PTE, it must always comply, even though compliance with the standard may reduce HAP emissions from the source to below major source thresholds.

USEPA’s position, that a source that “chose” to remain major rather than limit its PTE before the applicable compliance date had to retain its status as major regardless of later downward adjustments to its potential to emit, came to be referred to as USEPA’s “once in, always in” policy. USEPA explains in its notice that the once in, always in policy was intended only as transitional guidance to answer pressing questions, and to remain in effect only until the agency proposed and promulgated amendments to the NESHAP General Provisions, of which the current proposal is a part.

**PROPOSED RULE WOULD ALLOW CHANGE TO AREA SOURCE AT ANY TIME**

After evaluating the once in, always in policy, USEPA determined that the policy as written does not provide incentive for sources to explore the use of different control techniques, pollution prevention, or other newer technologies that would result in lower emissions to the environment. In addition to the policy not promoting pollution prevention, according to the Federal Register notice, USEPA also determined that the policy could be changed because “[t]he [] policy [] created a dividing line between major and area sources that does not exist on the face of the statute by including a temporal limitation on when a source can become an area source by limiting its PTE,” but “... there is nothing in the CAA that compels the conclusion that a source cannot attain area source status after the first substantive compliance date of a MACT standard.”

In analyzing whether the proposed amendments are allowed under the CAA, USEPA notes that the Act does not discuss timelines or compliance dates in defining a “major source.” Likewise, USEPA’s regulations promulgated in 1994 do not place any sort of temporal requirement or deadlines for determining whether a source is considered major or minor. USEPA frankly states that its proposed rule is “wholly consistent with the plain language of [CAA] section 112(a)(1),” and even goes so far as to state that the 1995 once in, always in policy, by treating a major source as major regardless of subsequent limitations on PTE, does not follow the definition of “major source” found at section 112(a)(1).

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To enact this change in USEPA's position, the agency is proposing to add a new paragraph (c)(6) to Section 63.1 of the General Provisions. USEPA explains that if a major source decides under this new rule to take a PTE limit, it would no longer be subject to major source requirements applicable to HAP emissions – note that, beyond NESHAP requirements, this would also include compliance assurance monitoring and Title V requirements (unless the source is otherwise subject to Title V permitting).

The proposed rule language also contains a few restrictions of which sources need to be aware. First, if a major source takes advantage of this rule and limits its PTE to become an area source, and if that source later decides to switch back to major source status, it must comply with the major source MACT standards immediately upon that standard again becoming applicable to that source. In other words, there would be no "grace period." USEPA theorizes that because the source previously had to comply with MACT standards, the source should be able to comply with that standard immediately upon that standard again becoming applicable to the source. However, if USEPA amended the major source MACT rules while the source was operating as an area source and the source would have to undergo physical changes or other changes to be able to comply, the source would be allowed a to-be-determined amount of time to achieve compliance. USEPA is specifically seeking comments on this aspect of the proposal, and has set out other alternatives to immediate compliance that may be considered.

Second, if a major source voluntarily limits PTE and becomes subject to area source standards, USEPA proposes that the source be required to meet the applicable area source requirements immediately upon the effective date of the permit containing the PTE limits. Prior to the effective date of the permit, the source must continue to comply with the major source MACT standards applicable to it. The proposal provides that a source may submit a request for additional time if a physical change or installation of additional control equipment is required.

Third, USEPA does not intend to allow major sources that are subject to enforcement investigations or actions to avoid the results of that enforcement by becoming area sources. Likewise, an area source would not be absolved from any enforcement matters by becoming a major source.

Because many sources in Indiana may be affected by USEPA's NESHAP General Provision amendments, the development of this proposed rule will bear watching. The public comment period ends March 5, 2007.

The agency is also proposing to revise accordingly the tables in MACT standards that specify the applicability of General Provisions requirements. The entire proposed rule can be found in the Federal Register at 72 Fed. Reg. 69.

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## ***Indiana Chapter Hears Exclusive Report***

*By: Dr. David Hoffman, Ret.*

Local author and historian Bill Beck entertained the Indiana Chapter Meeting with his presentation on the history of the Air & Waste Management Association.

Beck, who has been awarded a contract to write a history of the Association for its centennial celebration in 2007, specializes in documenting corporate and association histories for companies and institutions nationwide. Beck started Lakeside Writers' Group 19 years ago following the publication of his first corporate history written about Minnesota Power.

Beck majored in history at Marian College in Indianapolis and did graduate work in American History at the University of North Dakota. He worked as a newspaper reporter in North Carolina and Minnesota, and then spent seven years as a senior writer at Minnesota Power in Duluth.

He returned to his native Indiana in 1991 and has produced more than 60 corporate and institutional history books since that time. Beck, whose daughter, Lara, served on the Advisory Committee to the Chapter's 2004 Annual Conference, graciously agreed to attend the December Chapter Meeting to present an exclusive overview of the structure and content of his newest historical project.

"The Air & Waste Management Association has a lengthy and rich heritage that will be hard to condense into the 80 pages that I'm allowed," said Beck. "I'm enjoying working on the project, and I'm uncovering some fascinating information about the historical efforts to control pollution."

Beck said he recently discovered an article in the Association's earliest journal, entitled *Air Repair*, which described how J.G. Mingle addressed the Indianapolis Downtown Rotary Club at the Hotel Claypool in October 1951. At the time, Mingle was Superintendent of the Indianapolis Air Pollution Prevention Department, and he discussed such issues as cinder emissions from steam locomotives, the burning of garbage in outdoor incinerators and trash burners, and fly ash emissions from the city's more than 130,000 coal-burning sources.

Beck's book is entitled *Air & Waste Management Association: Environmental Stewardship in a Century of Change*. The book will be distributed to every attendee at the Association's Centennial Meeting in Pittsburgh in June.

*Dr. David Hoffman is the Education Chair of the Indiana Chapter of the A&WMA.*

### ***Upcoming 16<sup>th</sup> Annual Environmental Health & Safety Symposium***

The 16<sup>th</sup> Annual Business & Industry's Environmental Health & Safety Symposium will be held on Wednesday & Thursday, March 28-29, 2007 at the Duke Energy Center, 525 Elm Street in Cincinnati, Ohio. As always, the days are packed with informative sessions, including a presentation by IDEM Commissioner Tom Easterly. Indiana Chapter members who attend should be sure to check out the A&WMA East Central Section membership information booth at the event. View the complete agenda or register online at [www.MECseminars.com](http://www.MECseminars.com).

***Indiana Chapter, A&WMA Technical Event,  
October 19, 2006 – Purdue University***  
*By: Stephen Dixon, Delphi Electronics and Safety*

For those who didn't make it to the Indiana Chapter Air & Waste Management (A&WMA) technical program at Purdue University on October 19, you may have missed one of the Chapter's best offerings. The core of the program was the new Birck Nanotechnology Center at Purdue, and a very informative panel of Energy Issues in Indiana moderated by the Purdue Energy Center.

John Weaver, Facility Manager for the Birck Center, provided a detailed review of the start-up of the center and the arising pollution control issues that nanotechnology may encounter. His presentation included examples of potential successes already realized through research at the Center. These include micro-valves for optical pressure relief related to glaucoma treatment, a bacteria sensor that can be used for short-term detection of contamination in the food distribution sector, and a medical breakthrough to generate cell growth in spinal cord injuries. A guided tour of the building facilities followed. The attendees were impressed with the extreme attention to water purity/conservation, air filtration, vibration control, and limitation of electromagnetic interference. The Center is about 85% complete and is devoted strictly to research. Many of the attendees agreed that re-visiting the Center one year from now to review successful applications coming out of this Center would be very interesting.

In a related activity, a November 24, 2006, article in the Indianapolis Star indicated that USEPA intends to begin development of rules to regulate potential water discharges of certain applications of nanotechnology, specifically the use of nanosilver as a bactericide. At this time, according to the USEPA contact, no other near-term expansion into regulation of nanotechnology is forecasted.

Ron Steuterman, Managing Director of the Purdue Energy Center, was very helpful in coordinating a panel of experts to discuss many of the energy initiatives that are going on right here in Indiana. Ron outlined in his opening presentation how Indiana is well-positioned to advance alternatives to the current fossil-fuel combustion economy which is threatened by cost and environmental restrictions.

Brandon Seitz spoke on Indiana's Strategic Energy Plan. Representing the Indiana Office of Energy and Defense Development, Brandon discussed areas where the State is supporting new projects through grants and professional assistance. Mack Sims of Duke Energy reviewed some of the early coal gasification projects. Craig Flandermeyer of Schmidt Associates presented a success story for implementing solar panels in an office building. Heather Cooper, Associate Professor of Mechanical Engineering at Purdue, gave an overview of hydrogen-derived and fuel cell energy efforts.

Ron Steuterman then called all of the speakers together to field questions from the audience. One of the important underlying concerns is the current requirement to use fossil-fuel supplied energy to derive more beneficial energy sources. Upfront capital investments to create these new sources are roadblocks. The economics at present do not invite an overwhelming swing to these available alternatives. It is clear that there is considerable research, regulatory involvement, and marketing needed to move us wholesale into the new world of energy.

As always, Amanda Hennessy and her Programs Committee, in coordination with the Purdue Chapter of the A&WMA (PAWMA), chaired by Sarah Bereznicki, did an excellent job in bringing together a very informative and interesting event. Most of the slides from the presentations will be available on the Indiana Chapter website at [www.inawma.org](http://www.inawma.org).

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Additionally, EPA is proposing that valves in gas/vapor service and in light liquid service that are part of an affected facility that commences construction, reconstruction, or modification after November 7, 2006 will have a leak definition of 500 ppm or greater. The affected facility for this new leak definition is the group of all equipment within a synthetic organic chemicals manufacturing industry (SOCMI) process unit that produces as intermediate or final product one or more of the chemicals listed in 40 CFR 60.489. Therefore, process units subject to rules that reference 40 CFR 60, Subpart VV (i.e., 40 CFR 60, Subparts DDD and KKK), except for 40 CFR 60, Subpart GGG, will not be subject to this requirement. The proposed 40 CFR 60, Subpart GGG includes amendments to specify that the affected facility also includes the affected facility defined for this rule.

## **2. Require New Compliance Options:**

- a. EPA is proposing to require annual monitoring of each open-ended line. Under the proposed 40 CFR 60, Subpart GGG, open-ended lines containing asphalt will be exempt from this requirement. Each cap, plug, blind flange, or second valve is to be monitored using USEPA Method 21. An instrument reading of 500 ppm or greater is defined as a leak for an open-ended line and facilities would have fifteen (15) days to repair the leak. Subsequently, the number of leaks and those not repaired within the specified timeframe will be required to be reported in the semi-annual reports.
- b. Furthermore, EPA is proposing to simplify repair requirements for pumps in light liquid service for which there are indications of liquids dripping during the weekly visible inspections.
- c. Additionally, the proposed amendments include allowances for decreasing monitoring frequency for pumps in light liquid service and valves in gas/vapor service and in light liquid service that are part of process units that are operated less than 75-percent (6570 hours).
- d. Another proposal is to require that either flow indicators be installed or bypass valves be car-sealed opened or closed, depending on functionality, or a lock-and-key type configuration be used for all bypass lines that could divert a vent stream from the 40 CFR 60, Subpart VV-required control device to the atmosphere. Consequently, facilities would be required to maintain records of when the vent streams were diverted to atmosphere and report the information in the semi-annual reports.
- e. Also proposed in these amendments is the requirement to conduct monitoring equipment calibration drift assessments at the end of each monitoring shift (in addition to pre-monitoring calibration) and to maintain records of the calibrations and drift assessments. Remonitoring would be required in cases where the subsequent drift assessment is failed.

3. **Address Technical Corrections and Clarifications:** In the proposed amendments, EPA is clarifying certain definitions such as “process unit” for consistency across federal LDAR regulations. Additionally, EPA is adding clarification language that will specify when the monitoring is to commence for new valves and pumps added to existing process units. The amendments also include updating the requirements for sampling connection systems to reflect most recent federal requirements, such as 40 CFR 63, Subpart H. A clarification has been added to not require monitoring of pumps that are in service when on delay of repair. Furthermore, EPA has added language that gives examples of what qualifies as a first attempt at repair.

Environmental management professionals impacted by this rulemaking are encouraged to keep up-to-date on further developments that may affect industry in Indiana.

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## ***Speakers Provide Valuable Updates at the 5<sup>th</sup> Annual Winter Technical Meeting***

*By Jaime K. Saylor, Hatchett & Hauck LLP*

Members of the Indiana Chapter of the Air & Waste Management Association who attended the Winter Technical Meeting on December 12, 2006 had the opportunity to hear the Indiana Manufacturers Association's Legislative Outlook as well as IDEM's 2007 Outlook.

Patrick Bennett, Indiana Manufacturers Association V.P. of Environment, Energy and Infrastructure, opened the meeting with a discussion of the changed political landscape at the Indiana Statehouse and predictions for environmental topics to be addressed by the incoming Legislature. He discussed the make-up of the House Environmental Affairs Committee and noted that the Senate Energy & Environmental Affairs Committee is largely unchanged from the last legislative session. Patrick then moved on to individual environmental topics of interest to the Indiana Manufacturer's Association, beginning with mercury. Currently, the Hoosier Environmental Council and IDEM are at odds on the regulation of mercury, with IDEM supporting adoption of the federal Clean Air Mercury Rule. Patrick predicts that both utilities and environmental groups will be trying to get favorable legislation from this session. Next, look for possible legislation regarding biofuels, including tax-credits or other incentives for the production of ethanol. Regarding "no more stringent than" legislation, which would prevent adoption of rules more stringent than the corresponding federal requirements, the Indiana Manufacturer's Association supports such legislation but Patrick explained that after the uproar caused in the last session, it will not actively pursue this issue. Patrick rounded out his presentation by anticipating legislation that will address the current environmental crimes statute, solid waste districts, rulemaking review, e-waste, standing to pursue environmental matters within the jurisdiction of the Office of Environmental Adjudication ("OEA"), and possible changes to brownfield funding. Patrick's presentation can be found on the Indiana A&WMA website at: [http://www.inawma.org/files/2006-12-12\\_StatehouseLegislative.pdf](http://www.inawma.org/files/2006-12-12_StatehouseLegislative.pdf).

Bruce Palin, Assistant Commissioner of the Office of Land Quality ("OLQ"), updated the group on OLQ activities, initially noting that Peggy Dorsey was recently appointed Deputy Assistant Commissioner. Regarding rulemakings, the Meth Rule (#06-125) is now being reviewed in the Attorney General's Office as the final step before becoming effective. In addition to requiring an environmental assessment of a property used as a drug lab, that rule also establishes standards for cleanup and sets out requirements to be met in order to become a person certified to clean these areas. IDEM is currently sending out notices to prospective contractors desiring to train for this type of cleanup work; Bruce asked that those interested email him to be put on an email/mail list for training notices. Bruce went on to discuss e-waste, which he noted is becoming a large problem in Indiana. OLQ's E-waste Rule (#05-181) was preliminarily adopted at the January 2007 Solid Waste Management Board ("SWMB") meeting and would require, among other things, registration for collecting, brokering, storing, recycling, reselling, dismantling, demanufacturing, or refurbishing electronic devices. Moving on to mercury switches, Bruce updated the group on the mandatory switch removal program that goes into effect in February 2007. HEA 1110 requires automakers to develop and implement a plan for removal, collection, and recycling or disposal of mercury switches from end-of-life vehicles. The plan has been submitted and public notice ended in early December. Bounties to be collected by motor vehicle recyclers are set at \$3 per switch and \$5 per anti-lock braking system ("ABS") switch, but the ABS switches are not required to be removed or collected. The Solid Waste Management Fund will be the source fund for the bounties to be paid, but the law allows transfers from the Special Fund and Recycling and Development Fund (with board approval). Bruce closed his presentation with a discussion of the Underground Storage Tank Rule (#06-182) that is scheduled for final adoption by the SWMB in March 2007. This rule will require new or replacement underground storage tank ("UST") systems installed within 1000 feet of a Community Public Water Supply System ("CPWSS") or a private potable drinking water well to have secondary containment. Bruce explained that the definition of CPWSS includes supply lines and any other part of the system, thereby potentially affecting many UST systems in the state. Bruce's presentation can be found at: [http://www.inawma.org/files/2006-12-12\\_LandQuality.pdf](http://www.inawma.org/files/2006-12-12_LandQuality.pdf).

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Bruno Pigott, Assistant Commissioner of the Office of Water Quality (“OWQ”), presented Program Priorities for the Office of Water Quality. These priorities are developed as a result of the most current Environmental Performance Partnership Agreement between IDEM and U.S. EPA Region 5. OWQ’s first priority is impaired waters, and the final 2006 Section 303(d) list of impaired waters was approved by U.S. EPA on May 23, 2006. IDEM develops total maximum daily loads (“TMDLs”) on waterbody segments in these impaired waters and in 2006, OWQ surpassed its goal of developing and submitting to USEPA TMDLs for 34 waterbody segments. OWQ will continue developing TMDLs in 2007. Regarding permits, IDEM’s goal is to issue 95% of all identified priority backlogged NPDES permits. OWQ exceeded its goal in 2006 and is continuing to address backlogged permits. OWQ also made strides towards reissuing all identified major NPDES permits that have been expired for ten or more years and is continuing to work towards that goal. Bruno also explained that OWQ is working towards its goal of reviewing and approving combined sewer overflow Long Term Control Plans. In the area of compliance and enforcement, OWQ is generally meeting its goal of inspecting 70% of major NPDES facilities and 30% of minor NPDES facilities, but has had some difficulty recently due to the vacancy of inspector positions. OWQ has met its goal of responding to 100% of citizen complaints. Regarding safe drinking water, Bruno explained that OWQ continues to work with public water supply systems to correct monitoring and reporting violations, and that it is completing sanitary surveys at the required frequency. Finally, Bruno relayed that the workgroup charged with drafting revised antidegradation rule language is behind schedule, but that the workgroup continues to develop a draft concept for a new approach to antidegradation. U.S. EPA has reviewed and commented on the concept, and the group is revising its approach to address concerns raised by the federal agency. Bruno’s presentation can be viewed at: [http://www.inawma.org/files/2006-12-12\\_WaterQuality.pdf](http://www.inawma.org/files/2006-12-12_WaterQuality.pdf).

IDEM Commissioner Thomas Easterly’s presentation was titled “IDEM Update & Air Quality Overview.” Commissioner Easterly reviewed IDEM’s environmental goal to “increase the personal income of all Hoosiers from the current \$0.88/\$1.00 of the national average to at least \$1.00/\$1.00 of the national average while maintaining and improving Indiana’s Environmental Quality.” Commissioner Easterly provided a graph linking higher gross domestic product (“GDP”) per capita to higher environmental quality, but also noted that the United States is behind some other countries with both high GDP and high environmental performance because those other countries are dealing with controlling greenhouse gases. According to Commissioner Easterly, in order to help increase the personal income of all Hoosiers, IDEM should make clear, consistent, and speedy decisions, which require the following: clear regulations, assistance before enforcement, timely resolution of enforcement actions, current and valid permits without unnecessary requirements, written standard operating procedures, and improved staff training and development. The Commissioner also explained how IDEM protects the environment through several means including issuing permits to regulated entities, but also explained that IDEM needs to improve its efforts to educate individual citizens on their environmental responsibilities. He explained that this requires awareness and changing of personal habits that are detrimental to the environment, such as an individual’s pouring oil down a storm drain. Commissioner Easterly then discussed a list of performance metrics IDEM uses to measure its success in different areas, including environmental quality, permitting efficiency, compliance, and organizational transformation. He tallied the counties above and below air quality standards for ozone and PM 2.5 and explained where IDEM is in the process of petitioning U.S. EPA in redesignating certain counties who moved from nonattainment into attainment. In the area of permitting, Commissioner Easterly explained that “as a new interpretation of the intent of statutes,” IDEM now tracks the total calendar days a permit is (in-house) and is applying a deadline to permits that traditionally do not have a statutory deadline. IDEM is succeeding in its goal of reducing the number of total permit days for air, water, and land permits. The percent of activities complying with regulations is also on the rise, with about 95% of facilities in compliance during an inspection. Next, the Commissioner

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outlined major regulatory initiatives to be considered or currently under consideration by IDEM regarding e-scrap; rulemaking to facilitate mercury switch removal; rulemaking to allow Performance Track; outdoor wood-fired boilers; utility NO<sub>x</sub>, SO<sub>2</sub>, and mercury emission rules; rulemaking to establish presumptive 326 IAC 8-1-6 VOC BACT controls to streamline permitting; possible statewide regulation of the formulation of consumer products and paint products to ensure continued compliance with the ozone standard and reduce Indiana's impact on neighboring states; and adjustment to the Title V permitting fees to fully fund the program. Finally, the following are items Commissioner Easterly would like to see the 2007 legislative session address:

- IDEM's budget;
- Prohibiting Commissioner from renewing a permit for a facility that was not constructed or has not operated for the past five years (Commissioner Easterly's example was a permitted waste management facility that was never built; homes are built around the property without the homeowners' knowledge that the vacant property is permitted as a landfill, only to discover the fact later as the landfill is built and begins operations);
- Development of more specific environmental criminal statutes;
- Streamlined rulemaking process when adopting federal requirements without change;
- Ask the Environmental Quality Service Council to study the environmental rulemaking process;
- Current roles of environmental districts (regional water and sewer districts, solid waste management districts); and
- Streamline the OEA process, particularly for permit appeals, by addressing standing, timeliness of decisions, standard of review, and potential for collection of damages.

Commissioner Easterly stated that he will not pursue Supplemental Environmental Project Banking during the upcoming legislative session. The Commissioner's presentation may be viewed at: [http://www.inawma.org/files/2006-12-12\\_AirQuality.pdf](http://www.inawma.org/files/2006-12-12_AirQuality.pdf).

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